

(c) All parties in interest, known and unknown, including creditors, will be bound by the decision based on such hearing if they lived within the vicinity of any place of posting during the posting period, whether they had actual notice of the hearing or not. As to those not within the vicinity of the place of posting, a rebuttable presumption of actual notice will arise upon the mailing of such notice at a reasonable time prior to the hearing, unless the said notice is returned by the postal service to the office of the OHA deciding official unclaimed by the addressee.

(d) Tribes to be charged with notice of death and probate. When a record reveals that a Tribe has a statutory option to purchase interests of a decedent, such Tribe must be notified of the pendency of a proceeding by the the OHA deciding official having probate jurisdiction in such proceeding, and the certificate of mailing of notice of probate hearing or of a final decision in probate to the Tribe at its record address will be conclusive evidence for all purposes that the Tribe had notice of decedent's death and notice of the pendency of the probate proceedings.

§4.212 Contents of notice.

(a) In the notice of hearing, the OHA deciding official must specify that at the stated time and place the OHA deciding official will take testimony to determine the heirs of the deceased person (naming him or her) and, if a will is offered for probate, testimony as to the validity of the will describing it by date. The notice must name all known presumptive heirs of the decedent, and, if a will is offered for probate, the beneficiaries under such will and the attesting witnesses to the will. The notice must cite this subpart as the authority and jurisdiction for holding the hearing, and must inform all persons having an interest in the estate of the decedent, including persons having claims or accounts against the estate, to be present at the hearing or their rights may be lost by default.

(b) The notice must state further that the hearing may be continued to another time and place. A continuance may be announced either at the original hearing by the OHA deciding official

or by an appropriate notice posted at the announced place of hearing on or prior to the announced hearing date and hour.

DEPOSITIONS, DISCOVERY, AND PREHEARING CONFERENCE

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

§4.220 Production of documents for inspection and copying.

(a) At any stage of the proceeding prior to the conclusion of the hearing, a party in interest may make a written demand, a copy to be filed with the OHA deciding official, upon any other party to the proceeding or upon a custodian of records on Indians or their trust property, to produce for inspection and copying or photographing, any documents, papers, records, letters, photographs, or other tangible things not privileged, relevant to the issues which are in the other party's or custodian's possession, custody, or control. Upon failure of prompt compliance, the OHA deciding official may issue an appropriate order upon a petition filed by the requesting party. At any time prior to closing the record, the OHA deciding official upon his or her own motion, after notice to all parties, may issue an order to any party in interest or custodian of records for the production of material or information not privileged, and relevant to the issues.

(b) Custodians of official records will furnish and reproduce documents, or permit their reproduction, in accordance with the rules governing the custody and control thereof.

§4.221 Depositions.

(a) *Stipulation.* Depositions may be taken upon stipulation of the parties. Failing an agreement therefor, depositions may be ordered under paragraphs (b) and (c) of this section.

(b) *Application for taking deposition.* When a party in interest files a written application, the OHA deciding official may at any time thereafter order the taking of the sworn testimony of any person by deposition upon oral examination for the purpose of discovery or for use as evidence at a hearing. The